

FILED

MAY 03 2002

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DEVVY KIDD
P.O. Box 60543
Sacramento, CA 95860

Plaintiff,

v.

UNITED STATES DEPARTMENT
OF VETERANS AFFAIRS
810 Vermont Ave, NW
Washington, DC 20420

Defendant.

CASE NUMBER 1:02CV00861

JUDGE: Richard W. Roberts

DECK TYPE: FOIA/Privacy Act

DATE STAMP: 05/03/2002

Civ.

ECF

**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

Plaintiff, Devvy Kidd, by counsel, hereby files this complaint for compliance with the Freedom of Information Act, 5 U.S.C. § 552 *et seq.* ("FOIA"). As grounds therefor, Plaintiff respectfully alleges as follows:

JURISDICTION AND VENUE

1. This court has jurisdiction over this action pursuant to 28 U.S.C. § 1346(a)(2) (United States as defendant), 5 U.S.C. § 552(a)(4)(B) (FOIA), and 5 U.S.C. § 552a(g)(5).
2. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B).

PARTIES

3. Plaintiff Devvy Kidd, is a resident of the state of California residing at P.O. Box 60543, Sacramento, CA 95860.
4. Defendant Department of Veterans Affairs ("DVA") is an agency and entity of the United States Government. Defendant DVA has its principal place of business in the District of

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Columbia. Defendant DVA has possession of the documents to which Plaintiff seeks access.

STATEMENT OF FACTS

5. Plaintiff filed with Defendant DVA on August 15, 2001, *via* certified mail, a FOIA request (*See* Exhibit 1) in the form of a letter to Defendant VA's FOIA officer, requesting access to certain records under the FOIA. Access was requested to:

"a copy of Timothy James McVeigh's DD-214 form showing he was legally discharged from active military service and from the U.S. Army."

6. As of October 4, 2001, Plaintiff had not received the requested information from Defendant DVA. On that date, Plaintiff wrote a letter to Defendant DVA inquiring about the status of her FOIA request. *See* Exhibit 2.

7. By letter dated October 24, 2001, Defendant DVA acknowledged receipt of Plaintiff's October 4, 2001 letter. *See* Exhibit 3. Defendant's October 24, 2001 letter stated that it was treating Plaintiff's October 4, 2001 letter as an appeal under the FOIA.

8. As of May 1, 2002, Plaintiff has not received a response to her October 4, 2001 FOIA appeal and has not received any substantive response to her August 15, 2001 FOIA request from Defendant DVA.

COUNT I

(Violation of the Freedom of Information Act)

9. Plaintiff realleges paragraphs 1 through 8 as if fully set forth herein.

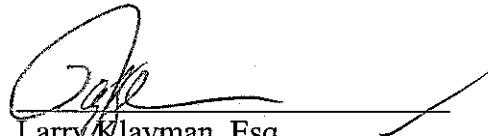
10. Pursuant to 5 U.S.C. § 552 (a)(6)(A)(i-ii), and 5 U.S.C. § 552 (a)(6)(C), Plaintiff shall be deemed to have exhausted her administrative remedies with respect to her FOIA request to Defendant DVA.

11. Pursuant to 5 U.S.C. § 552(a)(3), Plaintiff has a right of access to all of the

documents requested in her FOIA request, and Defendant DVA has no legal basis for refusing to disclose all of these documents to Plaintiff, which has not occurred to date.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare that Defendant's refusal to disclose the documents requested by Plaintiff is unlawful; (2) order Defendant to make the requested documents available to Plaintiff; (3) award Plaintiff her costs and reasonable attorney's fees in this action; and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,



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